

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 30186

TONGUE RIVER RAILROAD COMPANY, INC.—RAIL CONSTRUCTION AND
OPERATION—IN CUSTER, POWDER RIVER AND ROSEBUD COUNTIES, MONT.

Decided: March 17, 2015

On March 6, 2015, Northern Plains Resource Council and Wally McRae/Clint McRae d.b.a. Rocker Six Cattle Company (collectively, NPRC) and Tongue River Railroad Company, Inc. (TRRC) filed a joint petition to extend the procedural schedule governing this construction case.¹ Under the existing schedule established by decision served on December 10, 2014, a total of four depositions were to be completed no later than February 27, 2015. The existing schedule also provided that a supplemental submission from NPRC would be due 21 days following the date of the last deposition; fourteen days after NPRC submits its filing, Jay L. Schollmeyer, on behalf of SMART-Transportation Division, General Committee of Adjustment (GO-386) (hereinafter, SMART-386), could file a reply;² and that TRRC's reply to NPRC's filing and to any SMART-386 filing would be due 21 days following the due date of the SMART-386 submission.

In their March 6 joint petition, NPRC and TRRC seek an approximately one-week extension of the procedural schedule. They explain that, because of scheduling conflicts, they were not able to complete the depositions until March 3, 2015. In addition, NPRC requests that its supplemental comments be due 23 days, rather than 21 days, following completion of the last

¹ TRRC has filed a supplemental application seeking authority under 49 U.S.C. § 10901 for it to construct and for BNSF to operate a rail line in southeast Montana. The primary purpose of the proposed line is to transport low sulfur sub-bituminous coal from a planned coal mine at Otter Creek, Mont. and other possible future mines that might be developed in the Otter Creek and Ashland, Mont. area. A decision served in this docket on September 10, 2014, provides a more detailed background of this proceeding.

² By decision served on November 21, 2014, the Board granted a petition filed by SMART-386 allowing SMART-386 to file a reply to NPRC's supplemental submission to the extent that the supplement relates to matters discussed in the SMART-386's previously filed comments in this proceeding. On December 11, 2014, SMART-386 petitioned the Board to reconsider the November 21 decision and December 10 schedule and permit SMART-386 a broader reply to the forthcoming NPRC submission. SMART-386 also suggests that more parties might wish to update their earlier statements.

deposition so that it can fully consider the deposition testimony. TRRC states that it does not oppose this request.

The extension request is reasonable and will be granted. Accordingly, NPRC's supplemental filing will be due on March 26, 2015; SMART-386 may file a reply, as described in the November 21, 2014 decision, by April 9, 2015; and TRRC may reply to NPRC and to any SMART-386 submission by April 30, 2015.

It is ordered:

1. The extension request from NPRC and TRRC is granted.
2. The procedural schedule is modified as discussed above.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.